

78B-5-504. Declaration of homestead -- Filing -- Contents -- Failure to file -- Conveyance by married person -- No execution sale if bid less than exemption -- Redemption rights of judgment creditor.

An individual may select and claim a homestead by complying with the following requirements:

(1) Filing a signed and acknowledged declaration of homestead with the recorder of the county or counties in which the homestead claimant's property is located or serving a signed and acknowledged declaration of homestead upon the sheriff or other officer conducting an execution prior to the time stated in the notice of execution.

(2) The declaration of homestead shall contain:

(a) a statement that the claimant is entitled to an exemption and if the claimant is married a statement that the claimant's spouse has not filed a declaration of homestead;

(b) a description of the property subject to the homestead;

(c) an estimate of the cash value of the property; and

(d) a statement specifying the amount of the homestead claimed and stating the name, age, and address of any spouse and dependents claimed to determine the value of the homestead.

(3) If a declaration of homestead is not filed or served as provided in this section, title shall pass to the purchaser upon execution free and clear of all homestead rights.

(4) If an individual is married, no conveyance of or security interest in, or contract to convey or create a security interest in property recorded as a homestead prior to the time of the conveyance, security interest, or contract is valid, unless both the husband and wife join in the execution of the conveyance, security interest, or contract.

(5) Property that includes a homestead may not be sold at execution if there is no bid which exceeds the amount of the declared homestead exemption.

(6) If property that includes a homestead is sold under execution, the sale is subject to redemption by the judgment debtor as provided in Rule 69C of the Utah Rules of Civil Procedure. If there is a deficiency, the property may not be subject to another execution to cover the deficiency.

Renumbered and Amended by Chapter 3, 2008 General Session